

NOV 09 2006

U.S. Serial No. 09/534,708
Attorney Docket No. PD-980130REMARKS

The applicants have carefully considered the Office action dated August 10, 2006. Claims 28 to 30 and 32 to 47 are pending and at issue. Of the claims at issue, claims 28, 36, and 37 are independent. In view of the following remarks, reconsideration of the application is respectfully requested.

The Office action rejects claims 28 to 30 and 32 to 47 as unpatentable over Gordon et al. (US Pub. No. 2001/0056577) ("Gordon") in view of Beyers, II et al. (US 5,381,477) ("Beyers").

Claim 28 recites a method comprising, *inter alia*, adding conditional logic to channel objects that include more than one channel definition, the conditional logic including one or more rules that must be evaluated by a receiver to identify a first channel definition or a second channel definition based on receiver characteristics data representing a characteristic of the receiver.

Gordon is directed to a data structure and methods for providing an interactive program guide. Gordon describes arranging bitmap information associated with television channels in data blocks according to the type of access allowed to the television channel to include channel locks. A set top box includes keys that enable access to channels with locks opened by the keys. The Office action admits that Gordon does not describe that conditional logic is evaluated by a receiver based on receiver characteristics.

The Office action seeks to cure the deficiencies of Gordon by citing Beyers. Beyers is directed to a method of selecting cable television converter groups. In particular, Beyers describes a method whereby a subscription television service headend stores information about subscriber receiver terminals to group the subscriber receiver terminals (Col. 4, line 62-Col. 5, line 20; Col. 17, lines 11-31; Col. 24, lines 20-31).

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The Office action claims that Beyers describes "conditional logic including one or more rule[s] that must be evaluated by the receiver based on receiver characteristics data representing a characteristic of the receiver at Col. 2, lines 42-65+. (Office action, page 5, line 21-page 6, line 1). The applicants respectfully submit that the cited portions of Beyers do not describe or suggest conditional logic including one or more rule[s] that must be evaluated by the receiver, let alone that the one or more rules are evaluated based on receiver characteristics data representing a characteristic of the receiver. Beyers states, "problems of prior art subscription television systems are solved by providing a method of selecting individual subscribers for inclusion in groups by means of certain selection criteria..." (Col. 2, lines 53-55). Even if this method describes conditional logic including one or more rules, a point that the applicants do not concede, Beyers does not describe or suggest that conditional logic rules are evaluated by a receiver. Rather, Beyers states that "a group is a way for the user (either at system control computer 102 or alternatively, from billing computer 110 through billing computer interface 701) to define a collection of subscriber terminals." (Col. 24, lines 20-23). In other words, the method of Beyers is directed to storing information about subscriber terminals at a headend. It would not be obvious to one of ordinary skill in the art to modify Beyers for evaluation of conditional logic at a receiver because Beyers describes that receiver information is stored in a database at the headend (e.g., the system control computer). (Col. 16, lines 2-6). In addition, the database of receiver characteristics would not be compatible with the bitmap locking information described by Gordon. Adding conditional logic that is evaluated by a receiver based on receiver characteristics is inherently different from storing receiver characteristic information at a service provider headend.

It is well established that the prior art must teach or suggest each of the claim elements ... to establish a *prima facie* case of obviousness. See *In re Oetiker*, 24 USPQ.

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2d 1443, 1446 (Fed. Cir. 1992); Ex parte Clapp, 227 USPQ. 972, 973 (Bd. Pat. App. 1985); In re Royka, 490 F.2d 981 (CCPA 1974) and M.P.E.P. § 2143. Accordingly, because, as described above, neither Gordon nor Beyers describes or suggests adding conditional logic to channel objects that include more than one channel definition, the conditional logic including one or more rules that must be evaluated by a receiver to identify a first channel definition or a second channel definition based on receiver characteristics data representing a characteristic of the receiver, no combination of Gordon and Beyers can describe or suggest such a method. Accordingly, claim 28 and all claims depending therefrom are in condition for allowance.

Even assuming that Beyers was not deficient, Beyers teaches away from the use of the group information for conditional logic evaluated by receivers by stating "Groups are not tied to any particular functionality within the system. ... Therefore, the term 'group' as used herein does not refer to a predetermined class of subscriber terminals such as, for instance, the class of subscriber terminals which support a particular feature like remote control. Groups are defined on a headend basis..." (Col. 24, lines 24-32). It is improper to combine references where the references teach away from their combination. In re Grasselli, 218 USPQ. 769, 779 (Fed. Cir. 1983). Thus, even if Beyers suggested evaluating conditional logic based on receiver characteristics data, a point which the applicants do not concede, it would not be proper to combine Beyers with Gordon to suggest adding conditional logic to channel objects that include more than one channel definition, the conditional logic including one or more rules that must be evaluated by a receiver to identify a first channel definition or a second channel definition based on receiver characteristics data representing a characteristic of the receiver.

Therefore, for at least the forgoing reasons, claim 28 and all claims depending therefrom are in condition for allowance.

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Claim 36 recites a method comprising, *inter alia*, receiving a television content and the program guide data by a receiver station that includes a receiver, the program guide data including multiple channel objects, each channel object associated with one of the television channels, each channel object including at least one channel definition that identifies the channel content components including a video component or an audio component needed to construct the television channel associated with that channel object for display, each channel object with more than one channel definition including conditional logic having one or more rules including conditions that must be evaluated to identify an appropriate channel definition based on receiver characteristics data, the method comprising. For at least the forgoing reasons, claim 36 and all claims depending therefrom are in condition for allowance.

Claim 37 recites a system comprising, *inter alia*, a receiver for receiving television content, the television content divided into a plurality of television channels, each television channel constructed from at least one channel content component, the program guide data including multiple channel objects, each channel object associated with one of the television channels, each channel object including at least one channel definition that identifies the channel content components including a video component or an audio component needed to construct the television channel associated with that channel object for display, each channel object with more than one channel definition including conditional logic having one or more rules including conditions that must be evaluated to identify an appropriate channel definition based on system characteristics data representing a characteristic of the system, the method comprising. For at least the forgoing reasons, claim 37 and all claims depending therefrom are in condition for allowance.

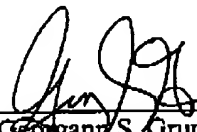
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If there is any matter that the examiner would like to discuss, the examiner should
feel free to contact the undersigned.

Respectfully submitted,

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